IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6041 of 2006

Shri Ravindra Somanna Modi, .. Petitioner

Vs

Shri Virpaksha Gurappa Modi and ors. Respondents.

Mr Amit Sale, for the petitioner.

CORAM : D.B.BHOSALE,J.
DATE : 12.09.2006

PC:

1. Heard the learned counsel for the petitioner.

2. The petitioner has challenged the order dated 24.4.2006, by which his application for appointment of the Court Commissioner for remeasurement of the land in dispute has been rejected. The Court Commissioner was appointed by the trial Court vide its order dated 10.3.2006. The Commissioner, accordingly, completed the work of commission and submitted the report on record. The petitioner has filed his objections to the said report on 5.1.2006. His objections are not yet considered by the trial Court. Keeping that in view, I am not inclined to interfere with the order impugned in the present writ petition. Moreover, the trial Court has sufficient powers to deal with the report of Court commissioner and objections, if any, filed by the parties and pass appropriate orders including

an order under sub-rule (3) of rule 10 of Order 26 of the Code of Civil Procedure. In the circumstances, the writ petition is dismissed. The dismissal of the petitioner's application seeking appointment of the Court Commissioner for remeasurement shall not be construed as rejection of his objections dated 5.1.2006 and the objections be considered on merits in accordance with law.

(D.B.BHOSALE,J.)